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DATE: February 3, 2004

TO: Examiner Gitomer Fax No.: (703) 872 9306
TC Art Unit:1651

FROM: Charles L. Gagnebin III No. of pages transmitted
(including this page): 2

Our File: RDMA-002XX Time:

Your Ref: Application No. 09/830,708
Filed Date: April 30, 2001
Sent by: Leigha

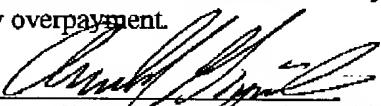
A confirmation copy of this transmission will not be mailed unless the following is checked:
MESSAGE

**PLEASE DELIVER DIRECTLY TO:
EXAMINER GITOMER, Tel. (703) 308-0732
TC ART UNIT NO: 1651**

FOR ENTRY

Enclosed for filing please find a: Notice of Appeal, Notice of Appeal Fee and 3-Month Extension.

The Commissioner is hereby authorized to Charge Deposit Account No. 23-0804 for any additional filing fees associated with this communication or credit any overpayment.



Attorney for Applicant: Charles L. Gagnebin III
Registration No. 25,467

THIS MESSAGE MAY CONTAIN CONFIDENTIAL OR PRIVILEGED INFORMATION INTENDED ONLY FOR THE PERSON(S) IDENTIFIED ABOVE. IF IT HAS BEEN RECEIVED AT ANY OTHER PLACE OR HAS NOT BEEN CLEARLY RECEIVED, PLEASE CALL THE ABOVE IDENTIFIED SENDING PARTY COLLECT FOR INSTRUCTIONS. DO NOT SHOW OR DISTRIBUTE THIS MESSAGE TO ANYONE OTHER THAN THE INTENDED RECIPIENT(S). THANK YOU.

Rev 09/03.

Application: 09/830,708
 Filed: April 30, 2001
 TC Art Unit: 1651
 Confirmation No.: 3616

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
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 Boston, Massachusetts 02109
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 Telecopier: (617) 451-0313

Date: February 3, 2004

Attorney
 Docket No.: RDMA-002XXX

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE BOARD OF APPEALS

In re application of: Michael J. Evelegh
 Entitled: SPECTROPHOTOMETRIC MEASUREMENT IN COLOR-BASED BIOCHEMICAL AND IMMUNOLOGICAL ASSAYS

Mail Stop AF
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Appeals from the decision dated August 4, 2003, of the Examiner finally rejecting claims 1-6 and 8-22.

The Commissioner is hereby authorized to charge Deposit Account No. 23-0804 in the amount of \$165.00 to cover the cost of the Notice of Appeal.

The following checked items are appropriate:

A timely response to the final rejection:

has been filed is hereby filed

An extension of time to respond to the final rejection:

1. was requested on December 22, 2003 for 2 month(s);
2. is hereby requested for an additional 1 month(s) (totaling 3 months extension) in the amount of \$265.00 for the Notice of Appeal. The Commissioner is hereby authorized to charge Deposit Account No. 23-804 for the cost.
3. is included on the enclosed amendment transmittal form along with a check in the amount of \$ _____ for the extension fee.

In the event a Petition for Extension of Time is required by this paper and not otherwise provided, such Petition is hereby made and authorization is provided herewith to charge Deposit Account No. 23-0804 for the cost of such extension.

The Commissioner is hereby authorized to charge payment of any additional filing fees under \$1.16 associated with this communication or credit any overpayment to Deposit Account No. 23-0804.

I hereby certify that this correspondence is being sent via facsimile to Examiner Ralph Gitomer, TC Art Unit 1651, Fax No. 703-872-9306 on 2-3-4

SUMMIT IN TRIPPLICATE
 301332

Attorney of Record: Charles E. Gagnebin III
 Registration No.: 25,467